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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KIMBERLY KNIGHT, an individual and)	Case No.: 2:14-cv-01258
TIMOTHY LUPTON, an individual,)	
)	
Plaintiffs,)	<u>AMENDED COMPLAINT</u>
)	
v.)	
)	JURY TRIAL DEMANDED
MATTHEW LAROSA, an individual,)	
)	
Defendant.)	
)	
)	

Plaintiffs, Kimberly Knight and Timothy Lupton (the “Plaintiffs”) allege as follows:

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. 1338(a) and (b) (original jurisdiction for copyright matters) as it is an action for copyright infringement under the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.*

2. Upon information and belief, this Court has personal jurisdiction over Matthew LaRosa because said Defendant purposefully directed activities to this Judicial District including by (i) willfully infringing the copyright of a resident of this Judicial District, (ii) distributing and/or making available Plaintiffs’ copyrighted works to residents of this Judicial District, and (iii) injuring copyright owners residing in this Judicial District.

3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1400(a).

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PARTIES

4. Plaintiff Kimberly Knight is an individual residing in Clark County, Nevada.

5. Plaintiff Timothy Lupton is an individual who formerly resided in Clark County, Nevada.

6. Upon information and belief, Defendant Matthew LaRosa (“Defendant” or “LaRosa”) is an individual residing at 1042 W. Maple Ave. Orange, CA 92868.

NATURE OF THE CASE

7. This action arises out of LaRosa’s unauthorized copying, reproduction and distribution of Plaintiffs’ copyrighted videos. Plaintiffs’ action is for direct and contributory copyright infringement. Plaintiffs are seeking actual damages, an award of attorneys’ fees and costs, and preliminary and permanent injunctive relief.

ALLEGATIONS COMMON TO ALL CLAIMS

8. Plaintiffs are professional directors and videographers in the adult entertainment industry and the authors of numerous niche fetish videos with surprising popularity.

9. Plaintiffs’ videos were created by them as freelance videographers and therefore they are not only the creator of such videos, but also are the owner of all right, title, and interest in the worldwide copyright to such videos. The videos which are the subject of this litigation have been registered with the U.S. Copyright Office and are subject to the following U.S. copyright registrations (hereinafter the “Registered Videos”):

<u>Registration No.</u>	<u>Video</u>
PA0001805899	CarolinePierce cookieWG_w.wmv
PAu003634787	KMarvel_CPierce pizzaEAT_4w.mp4
PAu003634787	3girl-chineseEAT1_w.mp4
PAu003630004	allura_whitesexLC_w.mp4
PAu003665901	kimberly-eggplantEAT_4w.mp4
PAu003701732	KimberlyMarvelCheerleader.mp4

1	PAu003634787	3girl-chineseEAT2_w.mp4
2	PA0001778762	A Blueberry Gum Fantasy.mp4
3	PA0001785019	amanda_holly-giantstudent_w.mp4
4	PA0001874668	Audrina - Chocolate Belly Stuffing And Tease.3gp
5	PA0001872733	BE Interactive - Julie Cash.mp4
6	PA0001783585	Belly Intervention II - Weigh In and Measuring.mp4
7	PA0001809647	beula-violetINFLATE_w.mp4
8	PA0001777515	Big Sexy Round Belly Cake Stuffing and Masturbation
9		Instruction.mp4
10	PA0001777515	Big Sexy Round OILY Belly Masturbation
11		Instruction.wmv
12		Blonde Brunette and Redhead Weight Gain Tease.wmv
13	PA0001779018	Bustin' Loose.wmv
14	PA0001790820	Clips4Sale - Taylormade Femdom - Sara Jay Sexy WG
15		Tease.mp4
16	PA0001798688	Copia de kimberly-nachosEAT_w.mp4
17	PA0001785982	Coveting Inflatables.wmv
18	PA0001786105	Crystal Ashley Overeating.wmv
19	PA0001793564	erisginhonWG_w.wmv
20	PA0001793564	georgiaovereat_w.wmv
21	PA0001785898	ginWG_w.wmv
22	PA0001785856	heidiWG_w.wmv
23	PA0001783649	Helena - WhiteCastle.mp4
24	PA0001800023	Helena Wants A Giant Belly For You.mp4
25	PAu003634787	helena_caroline-drbelly_w.mp4
26	PAu003690830	helena-3courseblueberry_w.mp4
27	PA0001783649	HelenaBreakingStuffing.mp4
28		

1	PAu003626169	helena-icecreamblobEAT_w.mp4
2	PAu003636849	helena-nopartyEAT_w.mp4
3	PAu003623439	helena-poolrubbelyMI_w.mp4
4	PA0001874665	Helena's Golden Belly.mp4
5	PA0001880863	helena-salmonWGT_w.mp4
6	PA0001800015	HelenaThe Feeder Strikes AgainMCI.wmv
7	PAu003642615	helena-undermuffin_w.mp4
8	PA0001785997	hellokittys.zip
9	PA0001774674	Hey How Much Do You Like Our Curves.wmv
10	PA0001785019	holcheerWG_w.wmv
11	PA0001785019	holgrow_w.wmv
12	PA0001796715	holly_helena-dreamfeeder_w.mp4
13	PAu003641066	hollyberrymi.mp4
14	PAu003660932	holly-blueASSE_w (1).mp4
15	PA0001778762	holly-bluefantasy_w.mp4
16	PA0001785898	Hooters Daydream.wmv
17	PA0001783633	Hungry Hungry Honey.wmv
18	PAu003696629	I Am Becoming One Big Blob Balloon.mp4
19	PA0001882042	I Am Going to Fill These Huge Panties with Fat For
20		You.wmv
21	PA0001809647	I Feel Funny!.mp4
22	PA0001779013	I Think I'm Allergic to that Soap.wmv
23	PA0001785962	I'll Have What She Was Having.wmv
24	PA0001785960	Jenna Sees the Light.wmv
25	PA0001779010	Jessie's EXPANSIVE Journey.wmv
26	PAu003695396	karenfisher-hipplumpHR_w.mp4
27	PA0001774674	KellyRed2girlbbwMI_w.wmv
28		

1	PAu003663629	kendra-rainbowASSE_w (1).mp4
2	PA0001794690	kim_donutpile.mp4
3	PAu003663629	kimberly_caroline-cerealhogEAT_w.mp4
4	PAu003687255	kimberly_zoe-bigbellyMI_w.mp4
5	PAu003701732	kimberly_zoe-fatphysical_w.mp4
6	PAu003687255	kimberly_zoe-oreoEAT_w.mp4
7	PAu003700583	kimberly_zoe-sushiEAT_w.mp4
8	PAu003634787	kimberly-alldayEATCUSTOM_w.mp4
9	PAu003665901	kimberly-bigsoftbellyMI_w.mp4
10	PA0001794728	kimberly-blueWGT_w.mp4
11	PAu003620220	KimberlyMarvelRibs.mp4
12	PAu003620220	kimberly-pizzawingsEAT_w.mp4
13	PA0001798681	kimberlyWGT_w.wmv
14	PAu003647384	Legends of Belly Kerry and Mellie We Need to Get
15		Fatter.mp4
16	PAu003647384	MadisonBlueberry.mp4
17	PAu003647384	mellied_kerrymarie-EAT_w.mp4
18	PAu003626169	mellied-bedEAT_w.mp4
19	PAu003642615	mellied-fatpilot_w.mp4
20	PAu003622279	MikaInflation.mp4
21	PA0001785205	Mon Muftop.wmv
22	PA0001786239	Mondo Hypno Expansion.wmv
23	PA0001785019	NOT FOR HUMAN CONSUMPTION.wmv
24	PAu003616308	O God People Can't See Me Like This.mp4
25	PA0001783633	Office Tension.wmv
26	PA0001800540	Orgasmic Growth.wmv
27	PA0001777510	redbbwbroochBE_w.wmv
28		

1	PAu003651087	sammie-51inchASSE_w.mp4
2	PAu003651087	sammie-suittest_w.mp4
3	PA0001786420	sammyjellybellyMIsm_4w.wmv
4	PA0001786420	sammyWGclothes_w.wmv
5	PA0001803590	Sybil`s Big Belly Revenge.mp4
6	PA0001779017	Taylor's Growth Truth.wmv
7	PAu003690830	Helena Blueberry - YouTube.mp4
8	PAu003641066	holly violet - YouTube.mp4
9	PAu003631792	marlnene wingsEAT - YouTube.mp4
10	PA0001786239	The Cheater.wmv
11	PAu003642615	The Hottest Weight Gain Tease Ever.mp4
12	PA0001785856	The VERY Special Present.wmv
13	PA0001786105	TMC - Basement Bimbo.mp4
14	PAu003634787	TMClips - Legens of Belly (full Clip).mp4
15	PA0001783585	Tour of Her Beautiful Weight Gain.mp4
16	PA0001785019	WGbrandy_w.wmv
17	PAu003686452	x-lizzy-gretelHG.mp4
18	PAu003686452	X-SPANDER Inflating to Please.mp4

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20 10. Upon information and belief, LaRosa, copied, without permission Plaintiffs’
 21 Registered Videos.

22 11. Upon information and belief, LaRosa copied Plaintiffs’ Registered Videos with
 23 the intent of distributing the videos worldwide over the internet, including to residents of
 24 Nevada.

25 12. Upon information and belief, LaRosa distributed Plaintiff’s Registered Videos
 26 worldwide over the internet, including to residents of Nevada, using multiple services including
 27 the GigaTribe network.

28 13. Upon information and belief, GigaTribe is peer to peer software where users

1 distribute content on their computers to others.

2 14. Upon information and belief, LaRosa promoted his infringing distribution by
3 posting on various websites including *www.gigatribe.com*.

4 **FIRST CLAIM FOR RELIEF**

5 *(Copyright Infringement)*

6 15. Plaintiffs repeat and re-allege each and every allegation set forth in this
7 complaint as if set forth here in full.

8 16. LaRosa has infringed Plaintiffs' copyrights in the Registered Videos by
9 reproducing, copying, distributing and/or facilitating the public display of the Registered Videos
10 without authorization in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§
11 106 and 501.

12 17. Plaintiffs have not granted to LaRosa any license or consent to copy, distribute,
13 display for others, or otherwise exploit the intellectual property protected under Plaintiffs'
14 copyrights in Plaintiffs' Registered Videos.

15 18. Each infringement by LaRosa in and to Plaintiffs' Registered Videos constitutes
16 a separate and direct act of infringement.

17 19. LaRosa's acts of infringement have been knowing and willful, in disregard of,
18 and with indifference to Plaintiffs' copyright rights in the Registered Videos.

19 20. As a direct and proximate result of LaRosa's infringing conduct, Plaintiffs are
20 entitled to damages and/or disgorgement of LaRosa's profits pursuant to 17 U.S.C. § 504(b), or
21 alternatively, to statutory damages up to the maximum of \$150,000.00 with respect to each
22 infringed copyright pursuant to 17 U.S.C. § 504(c).

23 21. Plaintiffs are additionally entitled to their costs pursuant to 17 U.S.C. § 505.

24 22. Plaintiffs are additionally entitled to an award of attorneys' fees pursuant to 17
25 U.S.C. § 505.

26 23. As a direct and proximate result of the foregoing acts and conduct, Plaintiffs
27 have sustained and, unless the relief sought herein is provided, will continue to sustain
28 substantial, immediate, and irreparable injury, for which Plaintiffs have no adequate remedy at

1 law, and unless enjoined and restrained by this Court, LaRosa will continue to infringe
 2 Plaintiffs' copyrights in the Registered Videos. Plaintiffs are entitled to preliminary and
 3 permanent injunctive relief, pursuant to 17 U.S.C. § 502.

4 **SECOND CLAIM FOR RELIEF**

5 *(Contributory Copyright Infringement)*

6 24. Plaintiffs repeat and re-allege each and every allegation set forth in this
 7 complaint as if set forth here in full.

8 25. Upon information and belief, LaRosa made available Plaintiffs' Registered
 9 Videos for copying and distribution through use of peer to peer software.

10 26. Upon information and belief, LaRosa knew that making available Plaintiffs'
 11 Registered Videos on peer to peer software would induce, cause, or materially contribute to the
 12 copyright infringement of Plaintiffs' Registered Videos.

13 27. Upon information and belief, LaRosa is liable for contributory copyright
 14 infringement as he knowingly induced, caused, or materially contributed to the infringing
 15 conduct of others.

16 28. By enabling, causing, facilitating, materially contributing to and encouraging the
 17 unauthorized distribution, public performance and public display of unauthorized copies of
 18 Plaintiffs' Registered Videos in the manner described above, with full knowledge of the
 19 illegality of such conduct, LaRosa has and continues to contribute to and induce widespread
 20 infringement of Plaintiffs' Registered Videos in violation of 17 U.S.C. § 501.

21 29. As a direct and proximate result of LaRosa's infringing conduct, Plaintiffs are
 22 entitled to statutory damages up to the maximum of \$150,000.00 with respect to each infringed
 23 copyright pursuant to 17 U.S.C. § 504(c); or alternatively, to damages and/or disgorgement of
 24 LaRosa's profits pursuant to 17 U.S.C. § 504(b).

25 30. LaRosa's contributory acts of infringement have been at all relevant times
 26 knowing and willful, in disregard of and with indifference to Plaintiff's copyright rights in the
 27 Registered Videos.

28 31. As a direct and proximate result of LaRosa's contributory infringement, Plaintiffs

1 are entitled to statutory damages up to the maximum of \$150,000.00 with respect to each
 2 contributory copyright infringement pursuant to 17 U.S.C. § 504(c); or alternatively, to damages
 3 and/or disgorgement of LaRosa's profits pursuant to 17 U.S.C. § 504(b).

4 32. Plaintiffs are additionally entitled to their costs pursuant to 17 U.S.C. § 505.

5 33. Plaintiffs are additionally entitled to an award of attorneys' fees pursuant to 17
 6 U.S.C. § 505.

7 34. As a direct and proximate result of the foregoing acts and conduct, Plaintiffs
 8 have sustained and, unless the relief sought herein is provided, will continue to sustain
 9 substantial, immediate, and irreparable injury, for which Plaintiffs have no adequate remedy at
 10 law, and unless enjoined and restrained by this Court, LaRosa will continue to infringe
 11 Plaintiffs' copyrights in the Registered Videos. Plaintiffs are entitled to preliminary and
 12 permanent injunctive relief, pursuant to 17 U.S.C. § 502.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiffs pray for judgment against LaRosa as follows:

- 15 a) That Plaintiffs be awarded statutory damages within the provision of Section
 16 504(c) of the Copyright Act 17 U.S.C. instead of an award of actual damages or
 17 profits for their copyright claims;
- 18 b) That should Plaintiffs so elect in the alternative to statutory damages, that
 19 LaRosa be ordered to disgorge and pay to Plaintiffs all his gains, profits, savings,
 20 and advantages realized by LaRosa from his acts of copyright infringement,
 21 described above;
- 22 c) For a preliminary and a permanent injunction enjoining LaRosa and any
 23 respective agents, servants, employees, officers, members, successors, licensees
 24 and assigns, and all persons acting in concert or participation with each or any of
 25 them, from: (i) directly or indirectly reproducing, copying, adapting, displaying,
 26 selling, using or otherwise infringing in any manner any of the Registered Videos
 27 and (ii) causing, facilitating or participating in the infringement of any of the
 28 Registered Videos;

- 1 d) For any and all further injunctive relief that this Court may deem just and proper
2 under the circumstances of this case;
3 e) For an award of Plaintiffs' costs in litigating this matter, including, an award of
4 reasonable attorney's fees, pursuant to 17 U.S.C. § 505; and
5 f) For all other relief to which Plaintiffs are entitled and such other and further
6 relief as this Court may deem just and proper.
7

8 **JURY TRIAL DEMANDED**

9 Plaintiff hereby demands a trial by jury on all issues raised in Plaintiff's Amended
10 Complaint which are triable by a jury.
11

12 DATED this 5th day of August, 2014.
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14 Respectfully Submitted,

15 **BORGHESE LEGAL, LTD.**

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